

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
June 10, 2014**

A regular session of the Winchester Common Council was held on Tuesday, June 10, 2014 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 7:00 p.m.

PRESENT: Councilor Jeff Buettner, Evan Clark, John Hill, Corey Sullivan and John Tagnesi; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach; President John Willingham (9)

ABSENT: None (0)

MOMENT OF SILENCE – President Willingham led the citizens and councilors in a moment of silence.

PLEDGE OF ALLEGIANCE – Mayor Minor led the citizens and councilors in the Pledge of Allegiance.

APPROVAL OF MINUTES – May 13, 2014 Regular Meeting, May 20, 2014 Special Meeting, May 20, 2014 Work Session, May 27, 2014 Work Session, June 3, 2014 Special Meeting

Vice-President McInturff moved to approve the minutes as presented. *The motion was seconded by Councilor Tagnesi then unanimously approved 9/0.*

REPORT OF THE MAYOR

Mayor Minor stated she did not have a report to present.

REPORT OF THE CITY MANAGER

Interim City Manager Craig Gerhart stated he was glad to be in Winchester and looked forward to working with everyone.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated a new ordinance for item 1.4 has been handed out to clarify the tax exemption on the property. Item 1.6 has been corrected by Mr. Grisdale according to the work session discussion and is in the meeting packet.

PUBLIC HEARINGS

- 1.1 O-2013-40:** Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 9 OF THE WINCHESTER CITY CODE PERTAINING

TO WATER PROTECTION (*Implementation of applicable provisions of the Virginia Stormwater Management Plan*)

Arthur Christjohn of 523 Fairmont Avenue spoke against the storm water runoff that comes onto his property from National Fruit. He stated the runoff has caused damage to his sidewalks and to his neighbor's driveway. He also stated the standing water creates mosquitoes.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:06 p.m.

Vice-President McInturff moved to adopt O-2013-40. *The motion was seconded by Vice-Mayor Veach then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.2 O-2014-11: Second Reading – AN ORDINANCE TO AMEND CHAPTER 11 OF THE WINCHESTER CITY CODE BY ADDING A NEW SECTION, 11-24.1, THAT ESTABLISHES A FEE FOR GARBAGE AND REFUSE COLLECTION

Arthur Christjohn of 523 Fairmont Avenue spoke in opposition of the sanitation fee as he does not have as much garbage as his neighbors. He asked why his real estate taxes do not cover this.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:08 p.m.

Vice-President McInturff moved to adopt O-2014-11. *The motion was seconded by Councilor Buettner then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye

Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.3 O-2014-12: Second Reading – AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2014

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:13 p.m.

Vice-Mayor Veach moved to adopt O-2014-12. The motion was seconded by Mayor Minor then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.4 O-2014-15: Second Reading – AN ORDINANCE TO APPROVE THE APPLICATION OF THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OF WINCHESTER, FREDERICK AND CLARKE COUNTIES FOR TAX EXEMPT STATUS BY DESIGNATION PURSUANT TO CHAPTER 27 DIVISION 5 OF CODE OF THE CITY OF WINCHESTER

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:14 p.m.

Vice-President McInturff moved to adopt O-2014-15. The motion was seconded by Mayor Minor then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye

Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.5 O-2014-14: Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 6, 7, 8, 9, 10, 13, 15.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO DEFINITIONS, PERMITTED USES, AND USES REQUIRING A CONDITIONAL USE PERMIT FOR ALTERNATIVE FINANCIAL INSTITUTIONS TA-14-118

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:16 p.m.

Vice-President McInturff moved to adopt O-2014-14. The motion was seconded by Councilor Clark then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.6 O-2014-13: Second Reading – AN ORDINANCE TO AMEND ARTICLES 1 AND 13 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION OF MEDICAL CARE FACILITY AND PERMITTED USES IN THE PLANNED COMMERCIAL (PC) DISTRICT TA-14-120

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:16 p.m.

Vice-President McInturff moved to adopt O-2014-13. The motion was seconded by Councilor Tagnesi then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye

Vice-Mayor Veach	Aye
President Willingham	Aye

1.7 O-2014-16: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 14-17 AND 14-18 OF THE CODE OF THE CITY OF WINCHESTER REGARDING VEHICLE LICENSE FEES

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:18 p.m.

Vice-President McInturff moved to adopt O-2014-16. *The motion was seconded by Vice-Mayor Veach then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.8 O-2014-17: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-72 OF THE CODE OF THE CITY OF WINCHESTER REGARDING MEALS TAX LEVY AND RATE

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:19 p.m.

Vice-President McInturff moved to adopt O-2014-11. *The motion was seconded by Vice-Mayor Veach.*

President Willingham stated he will be voting against the 1% increase but would support a ½ %.

O-2014011 was then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Nay
Vice-President McInturff	Aye
Mayor Minor	Nay
Councilor Sullivan	Nay

Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Nay

1.9 O-2014-18: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-91 OF THE CODE OF THE CITY OF WINCHESTER REGARDING TRANSIENT LODGING TAX LEVY AND RATE

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:21 p.m.

Councilor Buettner moved to adopt O-2014-18. *The motion was seconded by Mayor Minor then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.10 O-2014-19: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-171 OF THE CODE OF THE CITY OF WINCHESTER REGARDING LEVY OF CIGARETTE TAXES

Paul Whittmore of the Winchester News Stand at 30 East Piccadilly Street spoke in opposition to raising the cigarette tax. He stated every store that sells cigarettes also sells lottery tickets. His store lost \$61,164 in lottery sales last year that would have gone to the education fund in Winchester.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:25 p.m.

Vice-President McInturff moved to adopt O-2014-19. *The motion was seconded by Councilor Clark then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye

Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Nay

1.11 O-2014-20: Second Reading – AN ORDINANCE TO AUTHORIZE THE APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2015

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:25 p.m.

Vice-President McInturff moved to adopt O-2014-20. The motion was seconded by Councilor Buettner then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.12 CU-14-230: Conditional Use Permit – Request of Greenway Engineering on behalf of the Winchester SPCA for animal shelter use at 111 Featherbed Lane (Map Number 252-01-31A) zoned Commercial Industrial (CM-1) District (Allows converting a former print shop building to a pet adoption center)

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:27 p.m.

Vice-Mayor Veach moved to approve CU-14-230. The motion was seconded by Mayor Minor then unanimously approved 9/0.

1.13 CU-14-212: Conditional Use Permit – Request of Braveger Enterprises, LLC for conversion of ground floor nonresidential use to residential use at 910 South Braddock Street (Map Number 212-01-H-6) zoned Central Business (B-1) District (Allows for converting a former personal service establishment to an apartment)

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:27 p.m.

Councilor Clark moved to approve CU-14-212. *The motion was seconded by Councilor Buettner then unanimously approved 9/0.*

- 1.14 CU-14-267:** Conditional Use Permit – Request of Eugene F. Dearing, III for extended stay lodging at 126 North Braddock St (Map Number 173-01-F-5) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay (Allows converting a former dental office and apartment building into 4 extended stay lodging units)

Lawton Saunders of 407 West Monmouth Street stated they have addressed the parking issue that was a problem for the extended stay units. He offered to answer any questions Council may have.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:29 p.m.

Vice-President McInturff moved to approve CU-14-267. *The motion was seconded by Councilor Sullivan then unanimously approved 9/0.*

2.0 PUBLIC COMMENTS

Arthur Christjohn of 523 Fairmont Avenue spoke in opposition of the farm vehicles that are not subject to anything. He expressed his concerns with safety and the loss of revenue as these vehicles are not inspected or taxed.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:31 p.m.

3.0 CONSENT AGENDA

- 3.1 O-2014-21:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-176 OF THE WINCHESTER CITY CODE REGARDING REFUND FOR UNUSED OR DAMAGED CIGARETTE STAMPS
- 3.2 O-2014-22:** First Reading: AN ORDINANCE AMENDING SECTIONS 6-5 AND 6-6 OF THE WINCHESTER LAND SUBDIVISION ORDINANCE PERTAINING TO APPROVAL OF MINOR SUBDIVISIONS SA-14-199 (The amendment eases restrictions on approving subdivisions administratively and ensures compliance with State Code on recording plats)
- 3.3 O-2014-23:** First Reading: AN ORDINANCE TO REZONE 1.442 ACRES OF LAND AT 150 COMMERCIAL STREET (Map Number 153-01-J-3) FROM HIGHWAY COMMERCIAL (B-2) DISTRICT TO COMMERCIAL INDUSTRIAL (CM-1) DISTRICT RZ-14-193 (Allow light industrial uses not otherwise allowed under B-2 zoning)
- 3.4 O-2014-24:** First Reading: AN ORDINANCE TO REZONE 2.57 ACRES OF LAND AT 1570 COMMERCE STREET (Map Number 252-01-2) FROM COMMERCIAL INDUSTRIAL (CM-1) DISTRICT TO MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT WITH PLANNED UNIT DEVELOPMENT

(PUD) DISTRICT OVERLAY RZ-14-35 (Allows a 26 three-bedroom townhouse units on primarily vacant industrial property)

- 3.5 R-2014-21:** Resolution – Adoption of the FY15 schedule of City Council Meetings
- 3.6 R-2014-24:** Resolution – Approval to refund prorated Business License Taxes to Oasis Brands in the amount of \$135,446 and to Winchester Emergency Physicians PC in the amount of \$2,771.80
- 3.7 R-2014-25:** Resolution – Authorizing to execute a contract for Wide Area Network Services with Conterra Fiber Solutions
- 3.8 R-2014-26:** Resolution – Adoption of the VRS Employer Contribution Certified Rate of 11.90% for the City and 8.72% for the City Schools
- 3.9** Motion to re-appoint Erica Truban as an “At-Large (Ward 4)” member and Vince Di Benedetto as a “Ward 2” member of the Winchester School Board each to serve a four year term ending June 30, 2018
- 3.10** Motion to appoint Craig Gerhart as the Clerk of Council.
- 3.11** Motion to appoint Craig Gerhart as a member of the Juvenile Detention Commission for an indefinite term.
- 3.12** Motion to appoint Craig Gerhart as the Local Board of Social Services for an indefinite term.
- 3.13** Motion to appoint Craig Gerhart as a member of the Winchester-Frederick County Metropolitan Planning Organization Policy Board for an indefinite term.
- 3.14** Motion to appoint Craig Gerhart as the Administrative Advisory Member of the Planning Commission for a term that is coextensive with the term in office.
- 3.15** Motion to appoint Craig Gerhart as a member of the Regional Jail Authority to fill an unexpired term ending February 28, 2017
- 3.16** Motion to appoint Craig Gerhart as an ex-officio member of the Social Services Advisory Board.
- 3.17** Motion to appoint Craig Gerhart as a member of the Community Policy and Management Team

Vice-Mayor Veach moved to approve the Consent Agenda as presented. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

4.0 AGENDA

- 4.1 R-2014-27:** Resolution – Adoption of a personnel action plan to begin hiring necessary staff positions in the City of Winchester

Interim City Manager Craig Gerhart stated as he was going around talking to the department directors during his first week, the need to hire positions to get the work of the City done was clearly the main issue on their minds. Staff has carved out a plan to hire the positions that saves the money needed to be saved and works within the budget.

Councilor Buettner moved to approve R-2014-27. *The motion was seconded by Vice-President McInturff then unanimously approved 9/0.*

4.2 Motion to approve the Interim City Manager Agreement with Gerhart Enterprises, Inc.

President Willingham stated this item will be considered after the Executive Session.

4.3 Motion for the Nomination of _____ for appointment to the School Board and direct the Clerk of Council to issue a Notice of a Public Hearing for citizen comment on same in accordance with §22.1-29.1 of the Code of Virginia.

Vice-President McInturff moved to nominate Lauren Hawley for appointment to the School Board. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

5.0 EXECUTIVE SESSION

5.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION AND PURSUANT TO §2.2-3711(A) (7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.

Vice-President McInturff moved to convene into executive session at 7:34 p.m. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

Vice-President McInturff moved to reconvene in open session at 8:16 p.m. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those

public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

4.2 Motion to approve the Interim City Manager Agreement with Gerhart Enterprises, Inc.

Vice-Mayor Veach moved to approve the Interim City Manager Agreement with Gerhart Enterprises. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

President Willingham stated he would entertain a motion to add to the agenda to approve an Execution of Order in the Monticello extension: Motion to authorize the City Attorney to execute the currently proposed dismissal order in Winchester Circuit Court Case No. CL14-272. *The motion was made by Vice-President McInturff, seconded by Councilor Clark, then unanimously approved 9/0.*

Motion to authorize the City Attorney to execute the currently proposed dismissal order in Winchester Circuit Court Case No. CL14-272

Vice-Mayor Veach moved to approve the execution of the proposed dismissal order in Winchester Circuit Court Case. No. CL14-272. *The motion was seconded by Councilor Clark then unanimously approved 9/0.*

6.0 ADJOURNMENT

Councilor Buettner moved to adjourn the meeting at 8:17 p.m. *The motion was seconded by Councilor Hill then unanimously approved 9/0.*

Kari J. Van Diest, CMC
Deputy Clerk of the Common Council